UNITED STATES PATENT AND TRADEMARK OFFICE

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10/037,334	11/09/2001	Hidekazu Nakai	275788US6	5902

22850 7590 11/17/2008		EXAMINER
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ART UNIT	PAPER NUMBER
2456	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/037,334	NAKAI, HIDEKAZU
	Examiner	Art Unit
	YASIN M. BARQADLE	2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>24 July 2008</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1 and 3-12</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1 and 3-1</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

Response to Amendment

1.   Applicant's arguments filed July 24, 2008 have been fully considered but they are not deemed persuasive.

Response to Arguments

2.   In essence the Applicant argues "there is no teaching or suggestion for the features of the claimed invention discussed above. Again, the independent claims similarly recite that the server is configured to receive the medium ID and identify from the ID the type of medium on which the medium ID is stored, and at least part of data downloaded includes a list of content data selected based on the identified type of medium." Page 10 second paragraph and page 9).

The Examiner respectfully disagrees. Hosoe teaches "The server, on the other hand, when having received server access permission request from the client, compares the memory medium identification information sent with this request to the memory medium identification information stored beforehand, for the permission of server access and, based on the comparison results, gives the authentication of server access permission or refusal to this client. Thus, only the clients having a legal memory medium are given a server access permission." (col. 2, lines 11-16). Hosoe, further teaches "The server, on the other hand, holds such a table as shown in FIG. 7 to identify the service and

the validity period and then provide necessary service." (Col. 7, lines 51-54). In

other word client sends medium id information to the server, the server

compares the ID with stored ID information to give access to the user and the

server provides necessary service including desired music information ((artist,

new music, and concert information capable of being selected and provided to

the user) based on the medium identification. See also col. 7, lines 29-39; fig. 7

and col. 7, ll. 64 – col. 8, ll. 2].).

Claim Rejections - 35 USC ff 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described
as set forth in section 102 of this title, if the differences between the subject matter sought to
be patented and the prior art are such that the subject matter as a whole would have been
obvious at the time the invention was made to a person having ordinary skill in the art to
which said subject matter pertains. Patentability shall not be negatived by the manner in
which theinvention was made.

3.   Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Hosoe (U.S. Patent No. 6,047,376) in view of Official Notice.

As to claim 1, Hosoe teaches a recording medium, comprising:

a first storage region wherein program information (first program)

describing a procedure for executing a connection to a predetermined server

(38) over a predetermined communication network (100) and downloading data

from the connected server (38), is stored [see fig. 2, col. 8, ll. 22-38 (first

program is stored on the medium)];

a second storage region into which the data can be written (any writable

storage region) [see fig. 2, col. 4, ll. 49-65 (the memory medium can be writable,

e.g., a floppy disk)]; and

a third storage region having an ID (identification number) unique to said

recording medium stored therein, wherein the server is configured to receive

the ID and identify from the ID, the type of medium on which the medium ID is

stored, wherein at least part of data downloaded from the server includes a list

of selectable content data selected based on the unique ID identified type of

medium "The server, on the other hand, when having received server access

permission request from the client, compares the memory medium

identification information sent with this request to the memory medium

identification information stored beforehand, for the permission of server

access and, based on the comparison results, gives the authentication of server

access permission or refusal to this client. Thus, only the clients having a legal

memory medium are given a server access permission." (col. 2, lines 11-16),

wherein at least part of data from the server (38) includes a list of selectable

content data selected (music information comprising artist information, new

music, and concert information) based on the identified type medium (based on

the memory medium identification information (see fig. 2, 7 and col. 7 lines 29-

54 and col. 8, lines 23-35).

Hosoe teaches the invention as explained above including content data

names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However, Hosoe does not expressly disclose the selectable content data includes price of the content.

The Examiner takes Official Notice that selectable content data including price of a content is well know in the art. One of ordinary skill in the art would readily appreciate that including the price of a content data to selectable content data such as music data would have been logical and generally beneficial because it would allow the recipient to conveniently identify the cost associated with particular content data.

As to claims 3-5, the ID (identification number) can be utilized by said server (38) to manage accounting for the downloaded data, identify a type of the download data, or supply source of the download data [see col. 6, ll. 41-49]. Note that to meet these claims the server only needs to be capable of utilizing the ID to manage accounting etc.

As to claim 6, Hosoe teaches a downloading method, comprising:

a readout step of reading out program information (first program), from a recording medium (35) having a first storage region wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) over a predetermined communication network (the WWW) and downloading data (music information

comprising artist information, new music, and concert information) from the connected server (38) is stored, a second storage region into which the data can be written (any writable region capable of storing the music information), and a third storage region having an ID unique (identification number) to said recording medium stored therein [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38 (first program is stored on the medium)];

an access step of accessing said server (38) in accordance with the read out program information (first program) [see col. 8, ll. 22-38];

an acquiring step of acquiring a list of selectable content data (music information comprising artist information, new music, and concert information) based on the medium ID (identification number) [see fig. 7, col. 7, ll. 28-54];

a transferring step of transferring the list of content data (music information comprising artist information, new music, and concert information) [see fig. 7, col. 7, ll. 28-54]; and

a download step of downloading required data (music information comprising artist information, new music, and concert information) from said server (38) accessed in accordance with the read out program information (first program) [see fig. 7, col. 7, ll. 28-54].

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65]. It would have been obvious to one of ordinary skill in the art

to store the data acquired by the download on the medium because the data

acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe teaches the invention as explained above including content data

names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However,

Hosoe does not expressly disclose the selectable content data includes price of

the content.

The Examiner takes Official Notice that selectable content data including price

of a content is well know in the art. One of ordinary skill in the art would

readily appreciate that including the price of a content data to selectable

content data such as music data would have been logical and generally

beneficial because it would allow the recipient to conveniently identify the cost

associated with particular content data.

As to claim 7, Hosoe teaches a recording apparatus, comprising:

a readout unit configured to read out program information (first program)

and a unique ID (identification number) from a recording medium, wherein the

program information describes a procedure for executing a process for

establishing a connection to a predetermined server (38) and downloading data

from the server (38), the unique ID (identification number) is information which

can be utilized by the server to at least identify from the ID, the type of medium

on which the medium ID is stored and to manage accounting for the download

data "The server, on the other hand, when having received server access

permission request from the client, compares the memory medium

identification information sent with this request to the memory medium

identification information stored beforehand, for the permission of server

access and, based on the comparison results, gives the authentication of server

access permission or refusal to this client. Thus, only the clients having a legal

memory medium are given a server access permission." (col. 2, lines 11-16),

wherein at least part of data from the server (38) includes a list of selectable

content data selected (music information comprising artist information, new

music, and concert information) based on the identified type medium (based on

the memory medium identification information (see fig. 2, 7 and col. 7 lines 29-

54 and col. 8, lines 23-35),

    [see fig. 2, col. 8, ll. 22-38 (first program is stored on the medium)];

    a memory configured to be able to store data [see fig. 2, col. 4, ll. 49-65

(the memory medium can be writable)];

    a display device (display device 23) configured to display (capable of

displaying) a list of selectable content based on the identified type medium (see

fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-54); and

    a controller configured to control (capable of controlling) downloading

required from the server (38) in accordance with the read out program

information (first program), and store the data acquired by the downloading

with identification information indicating a relationship to the program

information into the memory [see fig. 2].

Hosoe teaches the invention as explained above including content data

names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However,

Hosoe does not expressly disclose the selectable content data includes price of

the content.

The Examiner takes Official Notice that selectable content data including

price of a content is well know in the art. One of ordinary skill in the art would

readily appreciate that including the price of a content data to selectable

content data such as music data would have been logical and generally

beneficial because it would allow the recipient to conveniently identify the cost

associated with particular content data.

As to claim 8, Hosoe teaches a recording apparatus, comprising:

means for reading out program information (first program) and a

unique ID (identification number) from a recording medium (35), wherein the

program information (first program) describes a procedure for executing a

process for establishing a connection to a predetermined server (38) and

downloading data (music information comprising artist information, new

music, and concert information) from the server (38), the unique ID

(identification number) is information which can be (is capable of being) utilized

by the server (38) to at least identify from the ID, the type of medium on which

the medium ID is stored and to manage accounting for the download data "The

server, on the other hand, when having received server access permission

request from the client, compares the memory medium identification

information sent with this request to the memory medium identification

information stored beforehand, for the permission of server access and, based

on the comparison results, gives the authentication of server access permission

or refusal to this client. Thus, only the clients having a legal memory medium

are given a server access permission." (col. 2, lines 11-16), wherein at least part

of data from the server (38) includes a list of selectable content data selected

(music information comprising artist information, new music, and concert

information) based on the identified type medium (based on the memory

medium identification information (see fig. 2, 7 and col. 7 lines 29-54 and col.

8, lines 23-35),

means for storing data [see col. 4, ll. 49-65 (the medium can be writable,

e.g., a floppy disk)];

means for displaying (display device 23 and/or CPU 11) a list of

selectable content data based on the identified type medium (see fig. 2, 7 and

col. 7 lines 29-54 and col. 8, lines 23-54); and

means for controlling a download of required data from the server (38) in

accordance with the read out program information (first program) [see fig. 2].

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65]. It would have been obvious to one of ordinary skill in the art to store the data acquired by the download on the medium because the data acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe teaches the invention as explained above including content data names (the music information comprising artist information, new music, and concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However, Hosoe does not expressly disclose the selectable content data includes price of the content.

The Examiner takes Official Notice that selectable content data including price of a content is well know in the art. One of ordinary skill in the art would readily appreciate that including the price of a content data to selectable content data such as music data would have been logical and generally beneficial because it would allow the recipient to conveniently identify the cost associated with particular content data.

As to claim 9, Hosoe teaches a recording method for a recording apparatus having a memory, comprising:

a readout step of reading out program information (first program) and a unique ID (identification number) from a recording medium (35), wherein

the program information (first program) describes a procedure for executing a

process for establishing a connection to a predetermined server (38) and

downloading data (music information comprising artist information, new

music, and concert information) from the server (38), the unique ID

(identification number) is information which can be utilized by the server (38)

to at least identify from the ID, the type of medium on which the medium ID is

stored and to manage accounting for the download data "The server, on the

other hand, when having received server access permission request from the

client, compares the memory medium identification information sent with this

request to the memory medium identification information stored beforehand,

for the permission of server access and, based on the comparison results, gives

the authentication of server access permission or refusal to this client. Thus,

only the clients having a legal memory medium are given a server access

permission." (col. 2, lines 11-16), wherein at least part of data from the server

(38) includes a list of selectable content data selected (music information

comprising artist information, new music, and concert information) based on

the identified type medium (based on the memory medium identification

information (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-35); and

a downloading step of downloading required data (music information)

from the server (38) in accordance with the read out program information (first

program) [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38]; and

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65]. It would have been obvious to one of ordinary skill in the art to store the data acquired by the download on the medium because the data acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe teaches the invention as explained above including content data names (the music information comprising artist information, new music, and concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However, Hosoe does not expressly disclose the selectable content data includes price of the content.

The Examiner takes Official Notice that selectable content data including price of a content is well know in the art. One of ordinary skill in the art would readily appreciate that including the price of a content data to selectable content data such as music data would have been logical and generally beneficial because it would allow the recipient to conveniently identify the cost associated with particular content data.

As to claim 10, Hosoe teaches a playback apparatus comprising:

a readout unit configured to read out program information (first program) and a unique ID (identification number) from a recording medium, wherein the program information (first program) describes a procedure for executing a

process for establishing a connection to a predetermined server (38) and downloading data from the server (38), to at least identify from the ID, the type of medium on which the medium ID is stored and to manage accounting for the download data "The server, on the other hand, when having received server access permission request from the client, compares the memory medium identification information sent with this request to the memory medium identification information stored beforehand, for the permission of server access and, based on the comparison results, gives the authentication of server access permission or refusal to this client. Thus, only the clients having a legal memory medium are given a server access permission." (col. 2, lines 11-16), wherein at least part of data from the server (38) includes a list of selectable content data selected (music information comprising artist information, new music, and concert information) based on the identified type medium (based on the memory medium identification information (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-35),

a memory configured to store content data with identification information indication a relationship to the program information [see fig. 2, col. 4, ll. 49-65 (the memory medium can be writable)];

a display device (display device 23) configured to display (capable of displaying) a list of selectable content data based on the identified type medium (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-54); and

a controller configured to playback the content data based on the read

out program information [see fig. 2].

Hosoe teaches the invention as explained above including content data

names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However,

Hosoe does not expressly disclose the selectable content data includes price of

the content.

The Examiner takes Official Notice that selectable content data including

price of a content is well know in the art. One of ordinary skill in the art would

readily appreciate that including the price of a content data to selectable

content data such as music data would have been logical and generally

beneficial because it would allow the recipient to conveniently identify the cost

associated with particular content data.

As to claim 11, Hosoe teaches a playback apparatus comprising:

means for reading out program information (first program) and a unique

ID (identification number) from a recording medium, wherein the program

information (first program) describes a procedure for executing a process for

establishing a connection to a predetermined server (38) to at least identify

from the ID, the type of medium on which the medium ID is stored and to

manage accounting for the download data "The server, on the other hand,

when having received server access permission request from the client,

compares the memory medium identification information sent with this request to the memory medium identification information stored beforehand, for the permission of server access and, based on the comparison results, gives the authentication of server access permission or refusal to this client. Thus, only the clients having a legal memory medium are given a server access permission." (col. 2, lines 11-16), wherein at least part of data from the server (38) includes a list of selectable content data selected (music information comprising artist information, new music, and concert information) based on the identified type medium (based on the memory medium identification information (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-35);

means for storing content data (e.g., music) with identification information (identification number) indicating a relationship to the program information (stored on the same media) [see fig. 2]; and

means for displaying (display device 23) a list of selectable content data (music information comprising artist information, new music, and concert information) transmitted from the server (38) and based on the unique ID (identification number) [see fig. 1, 7, col. 5, ll. 1-10]; and

means for playback of the content data (e.g., music) based on the read out program information (e.g., based on information obtained from a music information service using the first program) [see fig. 2, col. 7, ll. 29-54].

Hosoe teaches the invention as explained above including content data names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However,

Hosoe does not expressly disclose the selectable content data includes price of

the content.

The Examiner takes Official Notice that selectable content data including

price of a content is well know in the art. One of ordinary skill in the art would

readily appreciate that including the price of a content data to selectable

content data such as music data would have been logical and generally

beneficial because it would allow the recipient to conveniently identify the cost

associated with particular content data.

As to claim 12, Hosoe teaches a playback method for a playback

apparatus having a memory comprising:

a readout step of reading out program information (first program) and a

unique ID (identification number) from a recording medium, wherein the

program information (first program) describes a procedure for executing a

process for establishing a connection to a predetermined server (38) to at least

identify from the ID, the type of medium on which the medium ID is stored and

to manage accounting for the download data "The server, on the other hand,

when having received server access permission request from the client,

compares the memory medium identification information sent with this request

to the memory medium identification information stored beforehand, for the

permission of server access and, based on the comparison results, gives the

authentication of server access permission or refusal to this client. Thus, only

the clients having a legal memory medium are given a server access

permission." (col. 2, lines 11-16), wherein at least part of data from the server

(38) includes a list of selectable content data selected (music information

comprising artist information, new music, and concert information) based on

the identified type medium (based on the memory medium identification

information (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-35);

a playback step of playback content data (e.g., music) with identification

information (identification number) indicating a relationship to (stored on the

same media) the program information (first program) from the memory based

on the read out program information (e.g., based on information obtained from

a music information service using the first program) [see fig. 2, col. 7, ll. 29-

54];

an acquiring step of acquiring a list of selectable content data (music

information comprising artist information, new music, and concert information)

based on the unique ID (identification number) [see fig. 7, col. 7, ll. 28-54]; and

a transferring step of transferring the list of content data based on the

identified type medium (see fig. 2, 7 and col. 7 lines 29-54 and col. 8, lines 23-

54).

Hosoe teaches the invention as explained above including content data

names (the music information comprising artist information, new music, and

concert information col. 7, lines 29-54), use limitations (fig. 5 and 7) . However,

Hosoe does not expressly disclose the selectable content data includes price of
the content.

The Examiner takes Official Notice that selectable content data including
price of a content is well know in the art. One of ordinary skill in the art would
readily appreciate that including the price of a content data to selectable
content data such as music data would have been logical and generally
beneficial because it would allow the recipient to conveniently identify the cost
associated with particular content data.

Conclusion

4.   **ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded
of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire
THREE MONTHS from the mailing date of this action. In the event a first reply
is filed within **TWO MONTHS** of the mailing date of this final action and the
advisory action is not mailed until after the end of the **THREE-MONTH**
shortened statutory period, then the shortened statutory period will expire on
the date the advisory action is mailed, and any extension fee pursuant to 37
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In
no event, however, will the statutory period for reply expire later than **SIX**
MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yasin M Barqadle/

Primary Examiner, Art Unit 2456